

In the United States District Court
for the Eastern District of Texas
Sherman Division

Medeia, Inc.
Plaintiff,

v.

Evoke Neuroscience, Inc., and
Sandeep Suresh
Defendants.

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Civil Action No.: 4:21-cv-335

Defendants' Notice of Removal

Defendants Evoke Neuroscience, Inc. and Sandeep Suresh hereby file this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. In support of this Notice and in compliance with the requirements for removal, Defendants would show the following:

Factual Background

1. On March 22, 2021, Plaintiff Medeia, Inc. filed this action in the 211th District Court of Denton County, Texas, styled "Medeia, Inc. v. Evoke Neuroscience, Inc., and Sandeep Suresh" and bearing Cause No. 21-2190-211. *See* Exhibit 3, Plaintiffs' Original Petition. This action is pending and has not been dismissed.

2. Defendants Evoke Neuroscience, Inc. and Sandeep Suresh were served with citation in this lawsuit on March 29, 2021 when counsel for defendants voluntarily accepted service. Accordingly, pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely because Evoke Neuroscience and Suresh have filed this Notice of Removal within 30 days of the date they received the initial pleadings and summons, and within one year of the date on which the underlying State Court Action was commenced.

Grounds for Removal

3. The district courts of the United States have original jurisdiction over this action based on diversity of citizenship among the parties, in that every defendant is now, and were at the time the action was commenced, diverse in citizenship from every plaintiff. 28 U.S.C. § 1332(a), 28 U.S.C. § 1441. No defendant is or was at the time this suit was commenced a citizen of the State of Texas.

4. As set forth in its Petition, Plaintiff Medeia, Inc. is a corporation incorporated under the laws of the State of Florida, having its principal place of business at the time this action was commenced in the State of California.

5. Defendant Evoke Neuroscience, Inc. is a corporation incorporated under the laws of the State of Delaware, having its principal place of business now and at the time this action was commenced in the State of New York. Evoke Neuroscience, Inc. is now and was at the time this action was commenced a citizen of the States of Delaware and New York.

6. Defendant Sandeep Suresh is an individual domiciled in the State of New Jersey. Sandeep Suresh is a citizen of the State of New Jersey, both now and at the time this action was commenced.

7. Plaintiff Medeia alleges that Sandeep Suresh, as an employee of Evoke Neuroscience, Inc. published false and disparaging information about Medeia and tortiously interfered with Medeia's prospective business relations. Ex. 7, Plaintiff's First Amended Petition, at ¶¶ 10-26. According to its petition, Medeia seeks damages in

excess of \$500,000. Ex. 7 at ¶ 27. The amount in controversy in this action therefore exceeds the sum of \$75,000.

8. To date, none of the parties has filed a jury demand.

9. Removal of this action is proper under 28 U.S.C. § 1441 because it is a civil action brought in state court, and the federal district courts have original jurisdiction over the subject matter under 28 U.S.C. § 1332 because the plaintiff and defendants are diverse in citizenship, the amount in controversy exceeds \$75,000, and none of the defendants are citizens of Texas.

10. Defendants Evoke Neuroscience, Inc. and Sandeep Suresh filed their Special Appearance and Original Answer Subject to Special Appearance on April 19, 2021. *See* Exhibits 5 and 6.

11. This Notice of Removal is brought on behalf of all defendants.

Removal Venue

12. Venue is proper in this United States District Court for the Eastern District of Texas, Sherman Division, because it is the judicial district and division in which the underlying state court action is pending. 28 U.S.C. § 1441(a).

Notice to State Court Regarding Removal

13. Promptly after the filing of this Notice of Removal, Defendants will give written notice thereof to all adverse parties, and will file a copy of the Notice of Removal with the Clerk of the 211th District Court of Denton County, Texas. 28 U.S.C. § 1446(d).

Attachments to Notice of Removal

14. In compliance with 28 U.S.C. § 1446(a) and Local Rule 81, Defendants have

attached true and correct copies of the following documents to this Notice of Removal:

Exhibit	Description
Exhibit 1	Civil Cover Sheet
Exhibit 2	Copy of State Court Docket Sheet ¹
Exhibit 3	Plaintiffs' Original Petition
Exhibit 4	Citation of Evoke Neuroscience, Inc. and Citation to Sandeep Suresh
Exhibit 5	Defendants' Special Appearance
Exhibit 6	Defendants' Original Answer Subject to Special Appearance
Exhibit 7	Plaintiff's First Amended Original Petition
Exhibit 8	Additional Information Required for Removal

15. Defendants Evoke Neuroscience, Inc., and Sandeep Suresh request that this Court remove this action to the United States District Court for the Eastern District of Texas, Sherman Division based on diversity jurisdiction under 28 U.S.C. §§ 1332, 1441, and 1446, and for such other relief to which Defendants may show themselves to be justly entitled.

¹ Defendants herein file an uncertified copy of the state court's docket sheet because counsel was unable to timely secure a certified copy due to COVID-19 restrictions in Denton County. Defendants will supplement with a certified copy upon receipt from the Denton County District Clerk.

Respectfully submitted,

**Touchstone, Bernays, Johnston, Beall,
Smith & Stollenwerck, L.L.P**

/s/ R. Wayne Gordon

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**Attorneys for Evoke Neuroscience, Inc.
and Sandeep Suresh**

Certificate of Service

This is to certify that this Notice of Removal has been served on all counsel of record for the other parties via the Court's electronic filing system and email pursuant to the Federal Rules of Civil Procedure on this 28th day of April 2021.

/s/ R. Wayne Gordon

R. Wayne Gordon